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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,557	09/05/2003	Christopher T. Zirps	B0751/7034	8184

22832 7590 05/27/2005

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EXAMINER

FLANAGAN, BEVERLY MEINDL

ART UNIT PAPER NUMBER

3739

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/656,557

Applicant(s)

ZIRPS ET AL.

Examiner

Beverly M. Flanagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Beverly M. Flanagan*  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Entry of Amendment***

The amendment filed March 7, 2005 has been entered and made of record.

### ***Previously Set Forth Rejections***

The 35 U.S.C. § 103(a) rejection of claims 1-4 as being unpatentable over Ishikawa et al. (U.S. Patent No. 6,306,081) is hereby *withdrawn*, with respect to claims 1 and 2.

**The following new and reiterated grounds of rejection are set forth:**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishikawa et al. (U.S. Patent No. 6,306,081).

**In regard to claim 1**, Ishikawa et al. teaches a hood 1 for an endoscope comprised of a joining member 4 to which is mounted a radially expandable balloon 10 (which constitutes a centering sleeve with a radially expandable element) and a cylindrical mount member 3 (which constitutes a collar mountable in the proximal end of

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hood 1) and a joining member 4 (which constitutes a radially flexible centering sleeve mountable in the distal end of hood 1) (see Figure 1). **In regard to claim 2**, inherent in the structure disclosed by Ishikawa et al. (as described above) are the method steps of providing the hood 1, attaching the balloon 10 to the joining member 4, inserting the mount member 3 into the proximal end of joining member 4 and placing the joining member 4 on the distal end of an endoscope.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al. (U.S. Patent No. 6,306,081).

**In regard to claims 3 and 4**, Ishikawa et al. are silent as to a kit containing a plurality of mount members 3 and a measurement tool. However, it would have been obvious for one of ordinary skill in the art at the time the invention was made to manufacture the mount member 3 in varying sizes to accommodate varying sized endoscopes and provide a plurality of said hoods in a kit, as to a surgical site having more than one endoscope. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a measurement tool in

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order to determine which of the plurality of hoods was suitable for a particular endoscope.

### ***Response to Arguments***

Applicant's arguments filed with the amendment of March 7, 2005 have been fully considered but they are not persuasive. Applicant should note the differing interpretation of the Ishikawa et al. reference as set forth in the rejection below. Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.

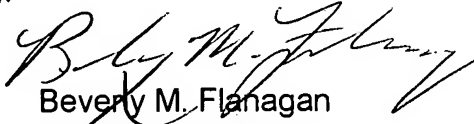
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Wednesdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Beverly M. Flanagan  
Primary Examiner  
Art Unit 3739

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